

Representative Lloyd W. Frandsen proposes to substitute the following bill:

CREATING OR CONSOLIDATING COUNTIES

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Lloyd W. Frandsen

AN ACT RELATING TO COUNTIES; REPEALING PROVISIONS RELATING TO THE
CREATION OF A NEW COUNTY; REENACTING AND MODIFYING PROVISIONS
RELATING TO THE CREATION OF A NEW COUNTY; AND PROVIDING FOR THE
CONSOLIDATION OF COUNTIES.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

17-3-201, Utah Code Annotated 1953

17-3-202, Utah Code Annotated 1953

17-3-203, Utah Code Annotated 1953

17-3-204, Utah Code Annotated 1953

17-3-205, Utah Code Annotated 1953

17-3-206, Utah Code Annotated 1953

17-3-207, Utah Code Annotated 1953

17-3-208, Utah Code Annotated 1953

17-3-209, Utah Code Annotated 1953

17-3-210, Utah Code Annotated 1953

17-3-211, Utah Code Annotated 1953

17-3-212, Utah Code Annotated 1953

17-3-301, Utah Code Annotated 1953

17-3-302, Utah Code Annotated 1953

17-3-303, Utah Code Annotated 1953

- 1 **17-3-304**, Utah Code Annotated 1953
- 2 **17-3-305**, Utah Code Annotated 1953
- 3 **17-3-306**, Utah Code Annotated 1953
- 4 **17-3-307**, Utah Code Annotated 1953
- 5 **17-3-308**, Utah Code Annotated 1953

6 REPEALS:

- 7 **17-3-1**, as last amended by Chapter 227, Laws of Utah 1993
- 8 **17-3-2**, as last amended by Chapter 68, Laws of Utah 1984
- 9 **17-3-3**, as last amended by Chapter 68, Laws of Utah 1984
- 10 **17-3-4**, as last amended by Chapter 227, Laws of Utah 1993
- 11 **17-3-5**, as last amended by Chapter 227, Laws of Utah 1993
- 12 **17-3-6**, as last amended by Chapter 227, Laws of Utah 1993
- 13 **17-3-7**, Utah Code Annotated 1953
- 14 **17-3-8**, Utah Code Annotated 1953
- 15 **17-3-9**, Utah Code Annotated 1953

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **17-3-201** is enacted to read:

18 **CHAPTER 3. CREATION AND CONSOLIDATION OF COUNTIES**

19 **Part 1. Reserved**

20 **Part 2. Creating a New County**

21 **17-3-201. Definitions.**

22 As used in this part:

23 (1) "New county" means the county created or proposed to be created, as provided in this
24 part, that does not include the county seat of the county from which the new county is created or
25 proposed to be created.

26 (2) "Original county" means the county from which a new county is created or proposed
27 to be created, with boundaries that do not include the new county or proposed new county.

28 Section 2. Section **17-3-202** is enacted to read:

29 **17-3-202. Creating a new county.**

30 A new county may be created as provided in this part.

31 Section 3. Section **17-3-203** is enacted to read:

17-3-203. Creation of new county -- Petition.

(1) The process to create a new county is initiated by filing a petition with the clerk of the county from which the new county is proposed to be created.

(2) Each petition under Subsection (1) shall:

(a) contain the signatures of:

(i) registered voters residing within the proposed new county equal in number to at least 25% of the number of votes cast within the proposed new county at the last gubernatorial election before the filing of the petition; and

(ii) registered voters residing within the original county equal in number to at least 25% of the number of votes cast within the original county at the last gubernatorial election before the filing of the petition;

(b) state the name of the proposed new county;

(c) define the boundaries of the proposed new county; and

(d) be filed before the first Monday in May of any year.

Section 4. Section 17-3-204 is enacted to read:

17-3-204. Creation of new county -- Election.

(1) At the next special election date under Subsection 20A-1-204(1)(a) that is more than 45 days after the filing of a petition under Subsection 17-3-203(1), the legislative body of the county in which the proposed new county is located shall hold an election on the proposal to create a new county.

(2) The county legislative body shall give reasonable, advance public notice of the election under Subsection (1).

(3) The form of ballot in an election under Subsection (1) shall be:

For the creation of (insert the name of the proposed new county)

Against the creation of (insert the name of the proposed new county)

Section 5. Section 17-3-205 is enacted to read:

17-3-205. Election returns -- Lieutenant governor certification -- Governor's proclamation -- Form of government and officers of new county.

(1) Immediately after the canvass of an election under Subsection 17-3-204(1) has been completed, the county clerk shall:

(a) prepare a certified abstract of the canvass, seal the certified abstract, and endorse it

1 "election returns"; and

2 (b) deliver the sealed, certified abstract in person or mail it by registered mail to the
3 lieutenant governor.

4 (2) Upon receipt of the certified abstract, the lieutenant governor shall promptly certify
5 the result of the election to the governor.

6 (3) If a majority of those voting from within the proposed new county and a majority of
7 those voting from within the original county vote in favor of the proposed new county, the
8 governor shall issue a written proclamation that:

9 (a) states the result of the election;

10 (b) declares the creation of the new county, to take effect at noon on the first Monday in
11 January of the year following the election of officers under Section 17-3-206;

12 (c) declares the name of the new county, as stated in the petition under Subsection
13 17-3-203(2)(b);

14 (d) describes the boundaries of the new county and the boundaries of the original county
15 as altered by the creation of the new county; and

16 (e) states the judicial district to which the new county belongs.

17 (4) Within three days after issuing a proclamation under Subsection (3), the governor shall
18 mail a copy of the proclamation to the legislative body of the county from which the new county
19 will be created.

20 (5) The government of each new county shall be organized as provided in Title 17,
21 Chapter 5, County Commissioners and Legislative Bodies, and shall have elected officers as
22 provided in Section 17-16-2.

23 Section 6. Section **17-3-206** is enacted to read:

24 **17-3-206. Transition committee -- Membership -- Duties.**

25 (1) Within 45 days after the issuance of the governor's proclamation under Subsection
26 17-3-205(3), the legislative body of the original county shall convene the first meeting of a
27 transition committee consisting of:

28 (a) three residents of the original county who are registered voters, appointed by the
29 governor within 20 days after the issuance of the governor's proclamation under Subsection
30 17-3-205(3);

31 (b) three residents of the new county who are registered voters, appointed by the governor

1 within 20 days after the issuance of the governor's proclamation under Subsection 17-3-205(3);
2 and

3 (c) three persons chosen by a majority of the six committee members in Subsections (1)(a)
4 and (b).

5 (2) The transition committee shall elect a chair from its members and establish rules to
6 govern its proceedings.

7 (3) A majority of the members of the transition committee constitutes a quorum, and the
8 action of a majority of a quorum constitutes the action of the transition committee.

9 (4) All meetings of the transition committee shall comply with Title 52, Chapter 4, Open
10 and Public Meetings.

11 (5) Members of the transition committee may not be paid for their service on the
12 committee, but shall be reimbursed all reasonably necessary expenses incurred in serving on the
13 committee.

14 (6) The transition committee shall:

15 (a) no later than 45 days before the election under Section 17-3-207, select from within
16 the new county at least two alternative locations for county seat to be placed before the voters at
17 an election under Section 17-3-207; and

18 (b) before the effective date of the new county's creation:

19 (i) meet as often as the committee considers necessary;

20 (ii) divide and allocate between the original county and the new county the assets and
21 liabilities that existed within the county from which the new county was created at the time of the
22 new county's creation;

23 (iii) determine the effect of the new county's creation on each dependent special district
24 created under Title 17A, Chapter 3, Dependent Special Districts, that is located partly within the
25 original county and partly within the new county; and

26 (iv) prepare and distribute publicly a written report of the transition committee's actions
27 under Subsections (6)(b)(ii) and (iii).

28 (7) In fulfilling its responsibilities under Subsections (6)(b)(ii) and (iii), each transition
29 committee:

30 (a) shall treat both the original county and the new county fairly and equitably, giving
31 preference to neither county and proportionately dividing between the counties the assets and

1 liabilities, taking into account differences between the two counties in terms of population,
2 population density, infrastructure, geography, size, assessed value of property, and expected
3 revenues from property tax, other taxes, and other revenue sources; and

4 (b) may engage professionals the committee reasonably considers necessary to assist the
5 committee.

6 (8) The original county and the new county shall equally bear all expenses of the transition
7 committee.

8 (9) (a) Judicial review of a decision of the transition committee may be sought by:

9 (i) the legislative body of the original county; or

10 (ii) (A) before the creation of the new county, the members-elect of the legislative body
11 of the new county; or

12 (B) after the creation of the new county, the legislative body of the new county.

13 (b) Each request for judicial review under Subsection (9)(a) shall be filed:

14 (i) within the later of:

15 (A) 30 days after the issuance of the transition committee's report under Subsection (6)(d);
16 or

17 (B) 30 days after the election of officers of the new county under Section 17-3-207; and

18 (ii) with the district court that has jurisdiction in the county from which the new county
19 is being created.

20 (c) In an action under Subsection (9)(a), the court shall uphold the decision of the
21 transition committee unless the court determines that the decision is arbitrary, capricious, or
22 illegal.

23 Section 7. Section **17-3-207** is enacted to read:

24 **17-3-207. Election to select county seat and to elect officers in new county.**

25 (1) On the first Tuesday after the first Monday of November next following the issuance
26 of the governor's proclamation under Section 17-3-205, the legislative body of each county from
27 which a new county is created shall hold an election for voters within the new county to select a
28 county seat and to elect county officers for the new county.

29 (2) Notwithstanding Subsection 20A-9-202(1), each person intending to become a
30 candidate for a county office to be filled at the election under Subsection (1) shall file a declaration
31 of candidacy within 15 days after the issuance of the governor's proclamation under Subsection

1 17-3-205(3).

2 (3) The city or town receiving the largest number of votes for county seat in an election
3 under Subsection (1) shall be the seat of the new county.

4 Section 8. Section **17-3-208** is enacted to read:

5 **17-3-208. Election code applies -- Election expenses.**

6 (1) Except as otherwise provided in this part, the provisions of Title 20A, Election Code,
7 apply to each election under this part.

8 (2) The original county and the new county shall equally share all expenses of the elections
9 provided for under this part.

10 Section 9. Section **17-3-209** is enacted to read:

11 **17-3-209. Transfer of records -- Expenses shared by counties.**

12 (1) On or before the effective date of the creation of a new county, the clerk and recorder
13 of the county from which the new county is created shall deliver to the clerk-elect and
14 recorder-elect of the new county:

15 (a) all original records relating to or affecting:

16 (i) title of real or personal property located entirely in the new county;

17 (ii) elections that have been held within the area of the new county;

18 (iii) the creation or operation of dependent special districts created under Title 17A,
19 Chapter 3, Dependent Special Districts, located entirely within the new county; and

20 (iv) the creation of independent special districts created under Title 17A, Chapter 2,
21 Independent Special Districts, located entirely within the new county; and

22 (b) certified copies of records relating to or affecting:

23 (i) title of real or personal property located partly in the original county and partly in the
24 new county;

25 (ii) elections held in voting precincts located partly in the original county and partly in the
26 new county;

27 (iii) the creation or operation of dependent special districts created under Title 17A,
28 Chapter 3, Dependent Special Districts, located partly in the original county and partly in the new
29 county; and

30 (iv) the creation of independent special districts created under Title 17A, Chapter 2,
31 Independent Special Districts, located partly within the original county and partly within the new

1 county.

2 (2) The new county shall pay all expenses of copying and transferring records or copies
3 of records from the original county to the new county.

4 Section 10. Section **17-3-210** is enacted to read:

5 **17-3-210. Effect on school districts, special districts, and voting precincts.**

6 (1) The creation of a new county under this part does not affect the boundaries of an
7 independent special district, created under Title 17A, Chapter 2, Independent Special Districts, or
8 a school district located within the original county or the new county.

9 (2) The creation of a new county divides each voting precinct located partly within the
10 original county and partly within the new county along the boundary separating the two counties.

11 (3) The effect of the creation of a new county on a dependent special district created under
12 Title 17A, Chapter 3, Dependent Special Districts, located partly within the original county and
13 partly within the new county, shall be determined by the transition committee under Section
14 17-3-206.

15 Section 11. Section **17-3-211** is enacted to read:

16 **17-3-211. Offenses in new county -- Civil and criminal actions.**

17 (1) Each offense committed in the area of the new county before the creation of the new
18 county that has not been prosecuted may be prosecuted to judgment and execution in the new
19 county.

20 (2) Each civil or criminal action pending in the district court to which the original county
21 belongs may continue to be prosecuted in the district court to which the new county belongs,
22 subject to a change of venue as provided by law.

23 Section 12. Section **17-3-212** is enacted to read:

24 **17-3-212. Delivery of certified tax list -- Delivery of taxes collected.**

25 On or before the effective date of the creation of the new county, the treasurer of the
26 original county shall deliver to the treasurer of the new county:

27 (1) a certified list of all taxes collected by the treasurer of the original county for the
28 preceding year upon the property located within the new county; and

29 (2) all taxes collected by the treasurer of the original county for the preceding year upon
30 property located within the new county, less the new county's pro rata share of the cost of
31 assessing and collecting the taxes and the entire cost of preparing the certified list under

1 Subsection (1).

2 Section 13. Section **17-3-301** is enacted to read:

3 **Part 3. Consolidating Counties**

4 **17-3-301. Consolidation of multiple counties.**

5 Two or more contiguous counties may be consolidated into a single new county as
6 provided in this part.

7 Section 14. Section **17-3-302** is enacted to read:

8 **17-3-302. Consolidation of counties -- Petition.**

9 (1) The process to consolidate more than one county into a single new county is initiated
10 by filing a petition with the clerk of the most populous county of the counties proposed to be
11 consolidated.

12 (2) Each petition under Subsection (1) shall:

13 (a) contain the signatures of registered voters residing within each of the counties proposed
14 to be consolidated equal in number to at least 25% of the number of votes cast within each of the
15 respective counties at the last gubernatorial election before the filing of the petition;

16 (b) state the name of the proposed consolidated county; and

17 (c) be filed before the first Monday in May of any year.

18 (3) Within five days of the filing of a petition under Subsection (1), the clerk of the county
19 in which the petition was filed shall deliver a copy of the petition to the clerk of each other county
20 proposed to be consolidated.

21 Section 15. Section **17-3-303** is enacted to read:

22 **17-3-303. Consolidation of counties -- Election.**

23 (1) At the next special election date under Subsection 20A-1-204(1)(a) that is more than
24 45 days after the filing of a petition under Subsection 17-3-302(1), the legislative body of each of
25 the counties proposed to be consolidated shall hold an election on the proposal to consolidate
26 counties.

27 (2) The legislative body of each of the counties proposed to be consolidated shall give
28 reasonable, advance public notice in its respective county of the election under Subsection (1).

29 (3) The form of ballot in an election under Subsection (1) shall be:

30 For the consolidation of (insert the names of each of the counties proposed to be
31 consolidated) into a single new county known as (insert the proposed name of the proposed

1 consolidated county)

2 Against the consolidation of (insert the names of each of the counties proposed to be
3 consolidated) into a single new county known as (insert the proposed name of the proposed
4 consolidated county)

5 Section 16. Section **17-3-304** is enacted to read:

6 **17-3-304. Election returns -- Lieutenant governor certification -- Governor's**
7 **proclamation.**

8 (1) Immediately after the canvass of an election under Subsection 17-3-303(1) has been
9 completed, the county clerk of each county proposed to be consolidated shall:

10 (a) prepare a certified abstract of the canvass, seal the certified abstract, and endorse it
11 "election returns"; and

12 (b) deliver the sealed, certified abstract in person or mail it by registered mail to the
13 lieutenant governor.

14 (2) Upon receipt of the certified abstract, the lieutenant governor shall promptly certify
15 the result of the election to the governor.

16 (3) If a majority of those voting from each county vote in favor of consolidating the
17 counties into a single county, the governor shall issue a written proclamation that:

18 (a) states the result of the election;

19 (b) declares the consolidation of the multiple counties into a single county, to take effect
20 at 12 noon on the first Monday in January of the year following the election of officers under
21 Section 17-3-305;

22 (c) declares the name of the consolidated county, as stated in the petition under Subsection
23 17-3-302(2)(b);

24 (d) describes the boundaries of the consolidated county; and

25 (e) states the judicial district to which the new county belongs.

26 (4) Within three days after issuing a proclamation under Subsection (3), the governor shall
27 mail a copy of the proclamation to the legislative body of each of the counties to be consolidated.

28 Section 17. Section **17-3-305** is enacted to read:

29 **17-3-305. Election to select county seat and to elect officers in consolidated county.**

30 (1) On the first Tuesday after the first Monday of November next following the issuance
31 of the governor's proclamation under Subsection 17-3-304(3), the legislative body of each of the

1 counties to be consolidated shall hold an election to select a county seat and to elect county
2 officers for the new consolidated county.

3 (2) Notwithstanding Subsection 20A-9-202(1), each person intending to become a
4 candidate for a county office to be filled at the election under Subsection (1) shall file a declaration
5 of candidacy within 15 days after the issuance of the governor's proclamation under Subsection
6 17-3-304(3).

7 (3) The city or town receiving the largest number of votes for county seat in an election
8 under Subsection (1) shall be the seat of the new county.

9 Section 18. Section **17-3-306** is enacted to read:

10 **17-3-306. Election code applies -- Election expenses.**

11 (1) Except as otherwise provided in this part, the provisions of Title 20A, Election Code,
12 apply to each election under this part.

13 (2) Each of the counties proposed to be consolidated shall bear their own respective
14 expenses of the elections provided for under this part.

15 Section 19. Section **17-3-307** is enacted to read:

16 **17-3-307. Transfer of records -- Expenses -- Transition to consolidated county.**

17 (1) On or before the effective date of the consolidation, the legislative body of each of the
18 counties to be consolidated shall deliver to the members-elect of the legislative body of the
19 consolidated county all original records of the respective counties to be consolidated.

20 (2) The new county shall pay all expenses of transferring records from the counties to be
21 consolidated to the consolidated county.

22 (3) The legislative body and all officers and employees of each of the counties to be
23 consolidated shall cooperate and take all steps reasonably necessary for a smooth and orderly
24 transition from separate counties with their separate organizations and structures to a consolidated
25 county with its consolidated organization and structure.

26 Section 20. Section **17-3-308** is enacted to read:

27 **17-3-308. Effect of consolidation.**

28 (1) Upon consolidation:

29 (a) each of the counties being consolidated are dissolved and lose their separate identity;

30 (b) all assets of each of the counties being consolidated are transferred and belong to the
31 new consolidated county; and

1 (c) all liabilities of each of the counties being consolidated are transferred to and assumed
2 by the new consolidated county.

3 (2) The consolidation of multiple counties under this part does not affect the boundaries
4 of an independent special district, created under Title 17A, Chapter 2, Independent Special
5 Districts, or a school district located within the area of the consolidated county.

6 Section 21. **Repealer.**

7 This act repeals:

8 Section 17-3-1, **By petition -- Election -- Ballots.**

9 Section 17-3-2, **Election returns transmitted to lieutenant governor.**

10 Section 17-3-3, **Certification of returns -- Governor's proclamation of creation of new**
11 **county -- Name -- Judicial district.**

12 Section 17-3-4, **County seat, selection by election -- First officers -- Election.**

13 Section 17-3-5, **Records to be transmitted -- Expenses for transcribing and transfer.**

14 Section 17-3-6, **Effect on precincts and school and other districts -- Indebtedness.**

15 Section 17-3-7, **Pending civil and criminal actions.**

16 Section 17-3-8, **Prior offenses.**

17 Section 17-3-9, **Division of taxes.**